

AL.2.1999-80₂



PROPOSED LONG-TERM COMMUNITY ORGANIZATION PROPERTY TAX EXEMPTION REGULATION

CONSULTATION PAPER AND QUESTIONNAIRE

Please review the proposed Regulation and
return your comments by August 18, 1998

**RETURN COMPLETED
QUESTIONNAIRE TO:**

Alberta Municipal Affairs
Municipal Services Branch
Legislative Projects Unit
17th Floor - 10155 102 Street
Edmonton AB T5J 4L4

A. Introduction

The Community Organization 1998 Property Tax Exemption Regulation expires on December 31, 1998, and has to be replaced by a longer term non-profit exemption regulation.

The Community Organization 1998 Property Tax Exemption Regulation resulted from the recommendations of the Non-Profit Tax Exemption Review Committee. This Review Committee was chaired by Ron Stevens, QC, MLA Calgary Glenmore, with Janis Tarchuk, MLA Banff-Cochrane and Ivan Strang, MLA West Yellowhead as members. It was established by the Minister of Municipal Affairs, the Honourable Iris Evans, in June 1997 to review and make recommendations on non-profit tax exemption issues.

The Review Committee process, which will be addressed in the next section of this consultation paper, led to the approval of the Community Organization 1998 Property Tax Exemption Regulation in December 1997. However, this regulation only applies to 1998 because of some timing and authority issues (especially since some of the Review Committee's recommendations required legislative amendments to implement). Further consultations were promised on the transitional issues and on the recommendations regarding non-profit seniors housing facilities, which are not to take effect until 1999.

The structure of this consultation paper is as follows:

- A. Introduction
- B. Background to the Proposed New Regulation
- C. Discussion of Key Issues:
 - 1. Status of Non-Profit Seniors Housing Facilities
 - 2. Status of Charitable and Benevolent Facilities that Primarily Assist Local Residents
 - 3. Exemption Access Requirements for Ethno-Cultural Association Facilities
 - 4. Application Requirements for Certain Non-Profit Groups
- D. Section by Section Overview of the Proposed Regulation
- E. Conclusion

Appendix 1: Text of the Current Community Organization 1998 Property Tax Exemption Regulation

Appendix 2: Stakeholder Questionnaire

We are asking that you send in your comments or return the completed questionnaire by **August 18, 1998**, to:

Alberta Municipal Affairs
Municipal Services Branch
Legislative Projects Unit
17th Floor - 10155 - 102 Street
Edmonton AB T5J 4L4

B. Background to the Proposed New Regulation

As noted in the introduction, the Non-Profit Tax Exemption Review Committee was established in June 1997 to review and make recommendations on non-profit tax exemption issues. The Review Committee then considered the history of these issues, listened to a number of stakeholders, and gathered other information in the following months. The next step was formulating draft recommendations on 15 issues:

1. Clarifying Definitions
2. Taxation of Retail Commercial Areas
3. Sports and Recreation Facilities
4. Professional Sports Franchises
5. Agricultural Societies and Community Associations
6. Exhibition Facilities
7. Arts and Cultural Facilities
8. Day Care Facilities
9. Unsubsidized Seniors Housing Facilities
10. Ethno-Cultural Associations
11. Charities with Few or No Local Beneficiaries
12. Thrift Shops and Sheltered Workshops
13. Chambers of Commerce
14. Business Tax Exemptions
15. Valuation of Sports and Recreation Facilities

These draft recommendations were sent out to stakeholders in a consultation paper in early November 1997. 112 written responses were received from interested stakeholders and stakeholder groups. The responses were generally (but not uniformly) very positive, with each of the draft recommendations obtaining the support of a majority of the stakeholders who provided comments. These draft recommendations also went to the Minister, Standing Policy Committee, and interested members of Caucus. The Committee then finalized its report and recommendations and presented same to the Honourable Iris Evans, Minister of Municipal Affairs.

Most of the Review Committee's recommendations were incorporated in the Community Organization 1998 Property Tax Exemption Regulation, which was approved in late December 1997. However, this regulation could not fully implement the Review Committee's recommendations because of three reasons:

1. There were transitional issues, and immediate implementation of certain recommendations would impose undue administrative burdens on some major municipalities.
2. Some of the recommendations required legislative amendments, and could not be implemented until the Municipal Government Act was amended in April 1998.
3. The recommendations on non-profit seniors housing facilities were not to start implementation until 1999 and were a matter of equalization and grant regulation as well as exemption regulation changes.

Since the Municipal Government Act (MGA) has been amended and municipalities have experience in administering the Community Organization 1998 Property Tax Exemption Regulation, it is now time to develop the longer term non-profit exemption regulation. We are proposing to call this longer term regulation the Community Organization Property Tax Exemption Regulation.

C. Discussion of Key Issues

As outlined in the previous part of this consultation paper, there has already been considerable stakeholder consultation regarding the Non-Profit Tax Exemption Review Committee recommendations that led to this proposed regulation. While we are prepared to consider further input regarding any of the areas addressed by the proposed Regulation or the Review Committee's recommendations, we are mainly seeking input on four particular issues:

1. status of non-profit seniors housing facilities;
2. status of charitable and benevolent facilities that primarily assist local residents;
3. exemption access requirements for ethno-cultural association facilities; and
4. application requirement for certain non-profit groups.

Each of these issues is discussed below.

1. Status of Non-Profit Seniors Housing Facilities

The Review Committee recommended only a limited extension of the existing exemption provisions in this area. The only additional non-profit seniors housing facilities that would be exempt would be those serving clients similar to the ones found in facilities now exempt under sections 362(1)(h) and 362(1)(m) of the MGA (nursing homes and publicly subsidized lodges). The specific Review Committee recommendations and this paper's comments on them are as follows:

- To be exempt from property taxes, a non-profit organization holding a seniors housing facility would have to demonstrate to the municipality that the facility met one of the following requirements:
 1. In addition to providing basic lodge services (three meals a day and housekeeping, linen, and security services) to a majority of the residents in the facility, the facility must provide additional care (normally through having a registered nurse on site or on call available to provide professional nursing services on a 24-hour basis). As well, the majority of the residents in the facility must be receiving or eligible for Home Care program services with a professional care component.

OR

2. In addition to the facility providing basic lodge services (three meals a day and housekeeping, linen, and security services) to a majority of residents, the majority of its residents must be receiving or eligible for a full or partial Alberta Seniors Benefit program cash benefit (this normally represents an income level below approximately \$18,000 to \$19,000 a year for single senior citizens and below about \$25,000 to \$28,000 for couples, depending on income sources and the age of the younger spouse).

OR

3. The facility must receive provincial operating subsidies for the provision of lodge services to its residents (facilities meeting this requirement are currently exempt under section 362(1)(n)(iv) of the MGA).

It is proposed to include alternative conditions 1 and 2 above in the Community Organization Property Tax Exemption Regulation. There is no need to include condition 3 in the actual wording of the regulation because all the facilities that qualify under condition 3 also qualify under condition 1 or 2.

- In addition, admission to the facility must be restricted to households where at least one member is 60 or older, or 50 and older with a severe disability or with severe health problems.

It is proposed to include this condition in the definition of a seniors non-profit facility eligible for exemption in the proposed regulation.

- In any case, any part of a property chiefly used as a retail commercial area would be taxable unless the non-profit organization that holds the facility also holds and operates the retail commercial area, and the funds raised are used to pay all or part of the operational or capital costs of the facility, or to support another facility qualifying for a non-profit property tax exemption. As well, any part of a property that is licensed under the Gaming and Liquor Act would be taxable unless the licence is a Class C or special event liquor licence (or a special event gaming licence) issued under the Gaming and Liquor Regulation.

This would be governed by the standard wording addressing retail and commercial facilities in the Community Organization Property Tax Exemption Regulation.

- To deal with the non-profit facilities that would not qualify under any of the exemption conditions specified above, there would be a five year transition period. This would normally involve the affected non-profit facilities paying 20 percent of their property taxes in year 1, 40 percent in year 2, 60 percent in year 3, 80 percent in year 4, and 100 percent in year 5.

The mechanism to accomplish this would be the reduction of the grants in place of taxes and the reduction of the exclusion from equalized assessments in annual stages. In year 1, 80 percent of the grant in place of taxes would be paid and 80 percent of the facility's assessment would be excluded from the equalized assessment (and hence education taxes). In year 2, the grant and exemption would be reduced to 60 percent, in year 3 to 40 percent, in year 4 to 20 percent, and in year 5 to 0 percent. Year 1 would be 1999 and year 5 would be 2003, since the current grants in place of taxes will be extended to 1998 to enable a planned and orderly transition. However, in clear cases of hardship, adjustments may be made to this transition process.

This recommendation is not an issue for the proposed Community Organization Property Tax Exemption Regulation per se. We are proposing to implement this recommendation through amendments to the Municipal Affairs Grants Regulation and special Ministerial Orders. Comments on this recommendation are nevertheless appropriate because this recommendation is an integral part of the Non-Profit Tax Exemption Review Committee's approach to addressing non-profit seniors housing facilities.

We are also asking for input on a proposal to complement the Review Committee's recommendations on non-profit seniors housing facilities with a modest new grant program. The proposal would be to provide **grant assistance** (perhaps \$300 per unit per year to non-profit seniors housing facilities that provide limited services (not full lodge level services) to their residents.

This assistance would be targetted to facilities which provide a limited package of resident services (such as informal counselling, taking residents to medical and other appointments, arranging social events, and providing short-term help with meals, cleaning, etc., when a resident is sick or has a fall) and have enough on-site staff to

deliver such services. The services offered would have to be less than full lodge level services and must be **in addition to** building services (caretaking, maintenance, etc.).

For the families to be eligible, **at least 60 percent** of the residents of the facility must be receiving or eligible for a full or partial Alberta Seniors Benefit (ASB) program cash benefit. As well, the facility must charge its residents a rent **not lower than** \$300 a month (approximately the average rent charged in subsidized senior citizen self-contained units).

2. Status of Charitable and Benevolent Facilities that Primarily Assist Local Residents

The 15 issues addressed by the Non-Profit Tax Exemption Review Committee were not all of the current non-profit exemption issues concerning municipalities. Rather they were the issues identified by the affected stakeholders as issues causing significant concern. However, some municipalities have subsequently identified other instances where problems have arisen with exempting various facilities or certain charitable or benevolent organizations.

The key problem is that in addition to the facilities cited by the Review Committee (day cares, thrift shops, sheltered workshops, etc.) there are a number of other facilities that provide significant benefits to the community which cannot be exempted by the municipality. The reason is the ownership requirement in section 362(1)(n)(iii) of the Municipal Government Act. A property leased or rented from a commercial landlord cannot qualify for an exemption under section 362(1)(n)(iii) even if its use is clearly for a charitable or benevolent purpose. The Community Organization 1998 Property Tax Exemption Regulation now allows a municipality to avoid this restriction in several cases (day cares, thrift shops, sheltered workshops, even charities with few or no local beneficiaries), but other cases are not covered.

It is proposed to include a new subsection (l) in section 14 of the Community Organization Property Tax Exemption Regulation to enable a municipality to exempt a facility operated and used by an organization formed for a charitable or benevolent purpose that would qualify for an exemption under section 362(1)(n)(iii) of the Municipal Government Act except for the ownership of the facility.

3. Exemption Access Requirements for Ethno-Cultural Association Facilities

Some stakeholders have raised the issue of discriminatory treatment. To qualify for exemptions for their facilities, ethno-cultural associations are required to meet the additional requirements of actively encouraging general public use and posting a sign setting out the area of and times when the facility is open to the public. These conditions are different than some of the other properties due to the fact that ethno-cultural associations vary in the way they operate. However, there is still a desire to provide exemptions when the associations have a facility or part of a facility that would normally be exempt if operated by a community association or another non-profit group so that full community access occurs.

Since we have not heard major complaints about these provisions in the Community Organization 1998 Property Tax Exemption Regulation, **we are proposing to maintain the existing provisions in the new regulation.**

4. Application Requirements for Certain Non-Profit Groups

It appears that municipalities have generally been successful in using the application process to identify facilities operated by non-profit organizations, and to identify when eligible non-profit facilities have relocated to other properties.

The Spring 1998 amendments amended section 362 of the Municipal Government Act to add the following wording:

362(2) Except for properties described in subsection (1)(n)(i), (ii) or (iv), a council may by bylaw make any property that is exempt from taxation under subsection (1)(n) subject to taxation under this Division to any extent the council considers appropriate.

(3) A council proposing to pass a bylaw under subsection (2) must notify any person or group that will be affected of the proposed bylaw.

(4) A bylaw under subsection (2) has no effect until one year after it is passed.

Therefore, we are proposing the following changes:

The wording now in section 15(1)(a), 15(1)(c), and 15(1)(e) of the Community Organization 1998 Property Tax Exemption Regulation would be deleted and replaced with the following proposed wording:

15(1)(a) the non-profit organization makes an application for an exemption to the municipality by November 30 in the assessment year and supplies the municipality with the following information in respect of the assessment on or before February 15 of the year following the assessment year.

Another subsection would be added to allow the municipality to waive the requirement for a non-profit organization which has previously been approved for an exemption under section 15 to reapply for its exemption. This waiver would be for a period of up to three years.

D. Section by Section Overview of the Proposed Regulation

Section 1: *Definitions*

We are proposing to maintain the current wording of section 1 of the Community Organization 1998 Property Tax Exemption Regulation in section 1 of the new Regulation.

PART 1 - General Rules

Section 2: *Application*

It is proposed that this section be worded to be effective for 1999 and subsequent years.

Section 3: *Part of a property*

Section 4: *Primary use of property*

Section 5: *Holding property*

Section 6: *Non-profit organization*

Section 7: *Meaning of restricted*

We are proposing to maintain the current wording of these sections of the Community Organization 1998 Property Tax Exemption Regulation in the comparable sections of the new Regulation.

Section 8: *Liquor Licences*

The side bar should read "Gaming and Liquor Licences." The extension of this section is to only allow an exemption for special event gaming licences for those non-profit organizations that have met the tests for exemption.

Therefore, if the organization holds a special event involving gaming or liquor, it should not lose its exemption. It is proposed that this section should specify that exemptions continue for the organization only if the gaming and liquor licence is a Class C liquor licence, a Class B area event licence (e.g., golf course mobile bar), or a special event licence (e.g., wedding liquor licence, Nevada pull tickets).

It is proposed that the remainder of section 8 would remain the same as in the Community Organization 1998 Property Tax Exemption Regulation.

PART 2 - Qualifications for Exemptions

Under Section 362(1)(n)(ii) to (iv)

Section 9: *Exemption under section 362(1)(n)(ii) of the Act*
Section 10: *Exemption under section 362(1)(n)(iii) of the Act*

We are proposing to maintain the current wording of these sections of the existing Community Organization 1998 Property Tax Exemption Regulation in the comparable sections of the new Regulation.

Section 11: *Exemption under section 362(1)(n)(iv) of the Act*

The proposals for this section are outlined on pages 4 and 5 above, which are in Part C (Discussion of Key Issues) of this consultation paper.

PART 3 - Other Property Exempt Under Section 362 (1)(n)

Section 12: *Definitions*
Section 13: *Exemptions for other property*

We are proposing to maintain the current wording of these sections of the existing Community Organization 1998 Property Tax Exemption Regulation in the comparable sections of the new Regulation.

Section 14: *Day cares, museums, and other facilities*

Although we have heard complaints regarding requiring non-profit organizations to apply, it appears that the application process has been useful in helping municipalities identify facilities operated by non-profit organizations, and to identify when eligible non-profit facilities have relocated to other properties. We are therefore not preparing major changes to this section.

Except for subsection (g) and a new subsection (l), which are discussed on pages 7 and 8 above (these are in Part C - Discussion of Key Issues), we are proposing to maintain the current wording of section 14 of the existing Community Organization 1998 Property Tax Exemption Regulation, in section 14 of the new Regulation.

Section 15: *Conditions for Exemption*

The proposals for this section are outlined on page 8 above, which is in Part C (Discussion of Key Issues) of this consultation paper.

Section 16: Retail Commercial Areas

We are proposing to maintain the current wording of section 16 of the existing Community Organization 1998 Property Tax Exemption Regulation in section 16 of the new Regulation.

PART 4 - Repeal

Section 17: Repeal

It is proposed that the new Regulation be reviewed in 2002.

E. Conclusion

This consultation paper is being circulated widely to municipalities, non-profit organizations and other interested groups and individuals.

We ask you to complete the questionnaire at the back of this consultation paper as soon as possible and return it to Alberta Municipal Affairs by **August 18, 1998**. If you would like to meet with Municipal Affairs staff regarding your comments or concerns, please indicate this in the "other specific comments or suggestions" section of the questionnaire.

The feedback we receive will be important to the finalization of the wording of the Community Organization Property Tax Exemption Regulation and the provisions for non-profit seniors housing facilities.

Appendices

Appendix 1:

Text of the Community Organization 1998 Property Tax Exemption Regulation (AR 289/97)

Table of Contents

Interpretation	1
Part 1 General Rules	
Application	2
Part of a property	3
Primary use of property	4
Holding property	5
Non-profit organization	6
Meaning of restricted	7
Liquor licences	8
Part 2 Qualifications for Exemptions under Section 362(n)(ii) to (iv)	
Exemption under section 362(n)(ii) of the Act	9
Exemption under section 362(n)(iii) of the Act	10
Exemption under section 362(n)(iv) of the Act	11
Part 3 Other Property Exempt under Section 362(n)	
Definitions	12
Exemption for other property	13
Day cares, museums and other facilities	14
Conditions for exemption	15
Retail commercial areas	16
Part 4 Repeal	
Repeal	17
Interpretation	1
1(1) In this Regulation,	
(a) “Act” means the <i>Municipal Government Act</i> ;	
(b) “charitable or benevolent purpose” means the relief of poverty, the advancement of education, the advancement of religion or any other purpose beneficial to the community;	

- (c) “general public” means pertaining to the general community, rather than a group with limited membership or a group of business associates;
- (d) “professional sports franchise” means a professional sports franchise operating in the National Hockey League, the Canadian Football League, the National Professional Soccer League or the Pacific Coast League;
- (e) “taxation” means taxation under Division 2 of Part 10 of the Act.

(2) The definitions in sections 1 and 284 of the Act apply to this Regulation.

PART 1

GENERAL RULES

Application	2 This Regulation applies to taxation in 1998.
Part of a property	3 An exemption under section 362(n)(i) to (iv) of the Act or Part 3 of this Regulation applies only to the part of a property that qualifies for the exemption.
Primary use of property	<p>4(1) Property is not exempt from taxation under section 362(n)(iii) or (iv) of the Act or Part 3 of this Regulation unless the property is primarily used for the purpose or use described in those provisions.</p> <p>(2) For the purpose of this Regulation, a property is primarily used for a purpose or use if the property is used for the specified purpose or use at least 60% of the time that the property is in use.</p>
Holding property	<p>5 When section 362(n)(i) to (iv) of the Act or Part 3 of this Regulation exempts property from taxation if a non-profit organization holds that property, the property is not exempt unless</p> <ul style="list-style-type: none"> (a) the organization is the owner of the property and the property is not subject to a lease, licence or permit, or (b) the organization holds the property under a lease, licence or permit.
Non-profit organization	6 When section 362(n)(i) to (iv) of the Act or this Regulation exempts property from taxation if a non-profit organization holds the property, the property is not exempt unless

- (a) the organization is a society incorporated under the *Societies Act*, or
- (b) the organization is
 - (i) a corporation incorporated in any jurisdiction, or
 - (ii) any other entity established under a federal law or law of Alberta

that is prohibited, by the laws of the jurisdiction governing its formation or establishment, from distributing income or property to its shareholders or members during its existence.

Meaning of
restricted

7(1) In this Regulation, a reference to the use of property being restricted means, subject to subsections (2) and (3), that individuals are restricted from using the property on any basis, including a restriction based on

- (a) race, culture, ethnic origin or religious belief,
- (b) the ownership of property,
- (c) the requirement to pay fees of any kind, other than minor entrance or service fees, or
- (d) the requirement to become a member of an organization.

(2) The requirement to become a member of an organization does not make the use of the property restricted so long as

- (a) membership in the organization is not restricted on any basis, other than the requirement to fill out an application and pay a minor membership fee, and
- (b) membership occurs within a short period of time after any application or minor fee requirement is satisfied.

(3) Not permitting an individual to use a property for safety or liability reasons or because the individual's use of the property would contravene a law does not make the use of the property restricted.

Liquor licences

8 For the purposes of section 365(2) of the Act, property in respect of which a Class C liquor licence or a special event licence is issued under the *Gaming and Liquor Regulation* (AR 143/96) is exempt from taxation if

- (a) the property is held by a non-profit organization and used solely for community games, sports, athletics or recreation for the benefit of the general public and meets the requirements of section 9 of this Regulation, or

- (b) the property is used for a charitable or benevolent purpose that is for the benefit of the general public, meets the ownership requirements of section 362(n)(iii) of the Act and meets the requirements of section 10 of this Regulation.

PART 2

QUALIFICATIONS FOR EXEMPTIONS UNDER SECTION 362(n)(ii) TO (iv)

Exemption under section 362(n)(ii) of the Act 9(1) The following property is not exempt from taxation under section 362(n)(ii) of the Act:

- (a) property to the extent that it is used in the operation of a professional sports franchise;
- (b) property that is used solely for community games, sports, athletics or recreation if, for more than 40% of the time that the property is in use, the majority of those participating in the activities are 18 years of age or older.

(2) Property is not exempt from taxation under section 362(n)(ii) of the Act if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7.

(3) Subsection (2) does not apply to the restriction referred to in subsection (1)(b).

Exemption under section 362(n)(iii) of the Act 10(1) Property referred to in section 362(n)(iii) of the Act is not exempt from taxation unless

- (a) the charitable or benevolent purpose for which the property is primarily used is a purpose that benefits the general public in the community in which the property is located, and
- (b) the resources of the non-profit organization that holds the property are devoted chiefly to the charitable or benevolent purpose for which the property is used.

(2) Property is not exempt from taxation under section 362(n)(iii) of the Act if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7.

Exemption under section 362(n)(iv) of the Act 11 Property referred to in section 362(n)(iv) of the Act is not exempt from taxation unless the accommodation provided to senior citizens is subsidized accommodation as defined in the *General Regulation* (AR 213/94).

PART 3

OTHER PROPERTY EXEMPT UNDER SECTION 362(n)

Definitions

12 In this section,

- (a) “arts” means theatre, literature, music, painting, sculpture or graphic arts and includes any other similar creative or interpretive activity;
- (b) “chamber of commerce” means a chamber of commerce that is a non-profit organization and is a member of the Alberta Chamber of Commerce;
- (c) “community association” means an organization where membership is voluntary, but restricted to residents of a specific area, and that is formed for the purpose of
 - (i) enhancing the quality of life for residents of the area or enhancing the programs, public facilities or services provided to the residents of the area, or
 - (ii) providing non-profit sporting, educational, social, recreational or other activities to the residents of the area;
- (d) “ethno-cultural association” means an organization formed for the purpose of serving the interests of a community defined in terms of the cultural, ethnic, national or linguistic origins or interests of its members;
- (e) “museum” means a facility that is established for the purpose of conserving, studying, interpreting, assembling and exhibiting, for the instruction and enjoyment of the general public, art, objects or specimens of educational and cultural value or historical, technological, anthropological, scientific or philosophical inventions, instruments, models or designs;
- (f) “retail commercial area” means property used to sell food, beverages, merchandise or services;
- (g) “sheltered workshop” means a facility designed to provide an occupation for and to promote the adjustment and rehabilitation of persons who would otherwise have difficulty obtaining employment because of physical, mental or developmental disabilities;

- (h) “thrift shop” means a retail outlet operated for a charitable or benevolent purpose that sells donated clothing, appliances, furniture, household items and other items of value at a nominal cost to people in need.

Exemption for
other property

13 This Part describes property that is exempt from taxation under section 362(n) of the Act that is not exempt under section 362(n)(i) to (iv) of the Act.

Day cares,
museums and
other facilities

14 A non-profit organization that holds property on which any of the following facilities are operated may apply to the municipality within whose area the property is located for an exemption for taxation:

- (a) a facility used for sports or recreation to the extent that the facility is not used in the operation of a professional sports franchise;
- (b) a facility located outside of Calgary or Edmonton that is operated and used by a community association;
- (c) a facility located in Calgary or Edmonton that is operated and used by a community association that is a member of the Federation of Calgary Communities or the Edmonton Federation of Community Leagues;
- (d) a facility used for fairs or exhibitions, including agricultural exhibitions;
- (e) a facility used for the arts or a museum;
- (f) a facility used for the care and supervision of children and that is
 - (i) a day care facility as defined in the *Day Care Regulation* (AR 333/90), and
 - (ii) licensed under that Regulation;
- (g) a facility used by an ethno-cultural association for sports, recreation or education or for charitable or other benevolent purposes if
 - (i) the use of the property by the general public is actively encouraged, and
 - (ii) a sign is prominently posted in the facility indicating the hours that the whole or part of the facility is accessible to the public;
- (h) a facility in a municipality operated and used by an organization formed for a charitable or benevolent purpose where the majority of the organization’s beneficiaries do not reside in the municipality;
- (i) a facility used as thrift shop;

- (j) a facility used as a sheltered workshop;
- (k) a facility operated and used by a chamber of commerce.

Conditions for
exemption

15(1) A municipality must grant a non-profit organization an exemption from taxation in respect of property referred to in section 14 that is held by the organization if

- (a) the non-profit organization makes an application for an exemption to the municipality by April 30, 1998 and supplies the municipality with the following by May 31, 1998:
 - (i) any information the municipality requires to determine if the organization meets the conditions for the exemption, and
 - (ii) a description of any retail commercial areas in the facility,
 - (b) the facility on the property is one of the facilities described in section 14 and the non-profit organization operates the facility on a non-profit basis,
 - (c) the facility on the property or any retail commercial area in the facility does not provide significant competition with one or more taxable businesses in the municipality or surrounding area,
 - (d) the funds of the non-profit organization are chiefly used for the purposes of the organization and not for the benefit of the organization's directors and employees,
 - (e) the municipality is satisfied that the operations of the non-profit organization on the property provide significant benefits,
 - (f) the property is not disqualified by virtue of subsection (2) or (3), and
 - (g) the requirements of subsections (4) and (5), if applicable, are met.
- (2) Property referred to in section 14(a) to (e), (g) or (k) is not exempt from taxation if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7.
- (3) Property referred to in section 14(f) or (h) to (j) is not exempt from taxation if an individual is not permitted to use the property because of the individual's race, culture, ethnic origin or religious belief.
- (4) Before granting an exemption under this section in respect of a property that is held by a non-profit organization, the municipality may

require that an agreement between the organization and the municipality be in force that sets out that

- (a) the organization will provide the municipality with a report by a time and in a manner specified in the agreement that sets out the information the municipality requires to determine if the organization met the conditions for the exemption during 1998, and
- (b) if the organization does not comply with the provisions referred to in clause (a), the organization will pay the municipality an amount equivalent to the property taxes that would be payable in respect of the property for 1998 if the property was not exempt.

(5) Before granting an exemption under this section in respect of a property that is owned by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that

- (a) no disposition of the property may be made without the approval of the municipality, and
- (b) if the organization is being wound-up and dissolved, the organization must, if required by the municipality, transfer the property to the municipality.

(6) Despite subsection (1), a municipality may, in respect of a non-profit organization, waive the requirement to apply by April 30, 1998 or any of the requirements in subsection (1)(c), (d) and (e).

(7) If a municipality grants an exemption to a non-profit organization and later determines that the organization did not meet the conditions that applied to the organization for the exemption for all or a part of 1998, the municipality may in 1998 cancel the exemption for all or part of 1998, as the case may be, and require the organization to pay property tax in respect of the property for the period that the exemption is cancelled.

Retail
commercial
areas

16(1) In this section, “exempt facility” means a facility or part of a facility held by a non-profit organization that is exempt from taxation under section 362(n)(i) to (iv) of the Act or section 15 of this Regulation.

(2) A retail commercial area that is located within an exempt facility is exempt from taxation if

- (a) the non-profit organization that holds the exempt facility also holds and operates the retail commercial area, and
- (b) the net income from the retail commercial area is used
 - (i) to pay all or part of the operational or capital costs of the exempt facility, or
 - (ii) to pay all or part of the operational or capital costs of any

other facility that is held by the non-profit organization and that is exempt from taxation under section 362 of the Act or section 15 of this Regulation.

PART 4

REPEAL

Repeal

17(1) The *Non-profit Organization Tax Exemption Regulation* (AR125/95) is repealed.

(2) Despite the repeal of the *Non-profit Organization Tax Exemption Regulation* (AR 125/95), that Regulation continues to apply to taxation in 1995, 1996 and 1997.



Appendix 2: Stakeholder Questionnaire

Please provide your name and your organization's name and address so we can contact you if further clarification is needed.

Introduction

The following sections will be brought forward unchanged from the Community Organization 1998 Property Tax Exemption Regulation. Do you have concerns with these sections?

Section 1	Definitions
Section 3	Part of a property
Section 4	Primary use of property
Section 5	Holding property
Section 6	Non-profit organization
Section 7	Meaning of restricted
Section 9	Exemption under section 362(1)(n)(ii) of the Act
Section 10	Exemption under section 362(1)(n)(iii) of the Act
Section 12	Definitions
Section 13	Exemptions for other property
Section 16	Retail commercial areas

Comments:

PART 1 - General Rules

Sections 2 and 17

1. How many years should the regulation be effective before a review is required?

Section 8

2. Do you agree with changing section 8 to allow an exemption for special event gaming licences?

PART 2 - Qualification for Exemptions Under Section 362(1)(n)(iv)

Section 11 - Non-Profit Seniors Housing Facilities

3. What are your comments regarding the Non-Profit Tax Exemption Review Committee recommendations on which non-profit seniors housing facilities should be exempt?

4. What are your comments on the recommended five year phase-in (subject to adjustments for hardship) for taxable seniors housing facilities?



5. What are your comments on the proposal for some grant assistance for facilities providing limited services to their residents?

PART 3 - Other Property Exempt Under Section 362(1)(n)

Section 14

6. Do you agree with maintaining the non-profit application process as it is in the current regulation?

Section 14(g)

7. Do you agree with maintaining the existing provisions for ethno-cultural associations (e.g., signage)?

Section 14(l)

8. Do you agree with adding a new category to include charitable and benevolent facilities with commercial landlords where the beneficiaries reside within the municipality?

Section 15

9. Do you agree with deleting the wording in section 15(1)(a) and replacing it with the proposed new section 15(1)(a)?

10. Do you agree with the change in date from April 30 to November 30 of the previous year? Any other date preferred?

11. Do you agree with deleting the provisions in section 15(1)(c) and 15(1)(e)?

12. Do you agree with including a provision for the municipality to waive the requirement for the non-profit organization reapplying for a specified time period?

Do you have any other specific comments or suggestions?

For further information on the Proposed Long-Term Community Organization Property Tax Exemption Regulation, please contact:

Mr. Ron Cust, Coordinator, Assessment and Tax Legislation, or
Ms. Janice Halko, Legislative Advisor

by phone at (403)427-2225, by fax at (403)420-1016, or by writing:

Alberta Municipal Affairs
Municipal Services Branch
Legislative Projects
17th Floor, 10155 - 102 Street
Edmonton AB T5J 4L4

***Thank you for taking the time to review this
consultation paper and to provide your views.***

Please send in your comments by August 18, 1998.

